FEDERAL COMMUNICATIONS COMMISSION Washington, D. C. 20554

OFFICE OF MANAGING DIRECTOR

March 10, 2005

Frank O. Rizzuto, Treasurer ATS Mobile Telephone, Inc. 2902 Harney Street Omaha, NE 68131

> Re: FY 2004 Regulatory Fee Fee Control No. 00000RR0G-05-032 Bill No. 0520000034

Dear Mr. Rizzuto:

This is in response to your request filed on behalf of ATS Mobile Telephone, Inc. (ATS) for waiver of the late payment penalty associated with its fiscal year (FY) 2004 regulatory fees. Our records reflect that we have received for \$1,117.44 for ATS's FY 2004 regulatory fees, but we have not yet received ATS's late payment penalty of \$279.36.

By way of explanation, you state in your late penalty waiver request that ATS's late payment is due to the lack of written notification of the 2004 regulatory fee deadline. Unlike 2004, you contend that in 2003 and previous years the FCC provided by surface mail public notice indicating the regulatory fee deadline.

The Commission takes great care to inform its licensees of the due dates, amounts of the fees, and payment methods on its web site, www.fcc.gov. For the FY 2004 regulatory fees, the Commission timely released and posted several Public Notices and news releases on its web site that informed licensees of the August 19, 2004 deadline. See Assessment and Collection of Regulatory Fees for Fiscal Year 2004, Report and Order, FCC 04-146 (released June 24, 2004)(FY 2004 Fee Order); Public Notice, FY 2004 Regulatory Fee Due No Later Than August 19, 2004, (July 2, 2004); FCC News, Official FY 2004 Regulatory Fee, Payment Window Opens Tomorrow – Fees Due No Later than August 19 (Aug. 9, 2004) (reminding of deadline and stating that Commission would begin aggressive effort to collect fees, including 25 percent penalty, beginning August 20, 2004); Public Notice, Deadline for Filing FY 2004 Regulatory Fees, DA 04-2549 (Aug. 18, 2004).

As a Commission licensee, ATS is charged with the responsibility to familiarize itself with the Commission's rules and requirements. As explained in the FY 2004 Fee Order, the Commission no longer disseminates public notices through surface mail. As indicated above, these notices are routinely posted on the Commission's website. Therefore, ATS's lack of familiarity with the Commission's rules governing and public notices concerning regulatory fee payments does not mitigate or excuse ATS's failure to pay its FY 2004 regulatory fee in a timely manner. The Commission has repeatedly held that "[1]icensees are expected to know and comply with the Commission's rules and regulations and will not be excused for violations thereof, absent clear mitigating circumstances. Sitka Broadcasting Co., Inc., 70 FCC 2d 2375, 2378 (1979), citing Lowndes County Broadcasting Co., 23 FCC 2d 91 (1970) and Emporium Broadcasting Co., 23 FCC 2d 868 (1970). Furthermore, the Communications Act of 1934, as amended, requires the Commission to assess a late charge penalty of 25 percent of any regulatory fee not paid in a timely manner. 47 U.S.C. § 159 (c).

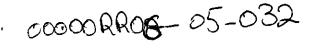
We find that ATS did not meet its obligation to file its regulatory fee to be received by the Commission no later than August 19, 2004, the final date of the regulatory fee filing window for FY 2004. We therefore deny your request for waiver of the penalty for late payment of the fiscal year 2004 regulatory fee.

Your late payment penalty in the amount of \$279.36 for FY 2004 is now due. The fee must be received, together with a copy of Bill No. 0520000034, within 30 days from the date of this letter. If you have any questions concerning this matter please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

Mark A. Reger

Chief Financial Officer





AND SO MUCH MORE!

December 14. 2004

Mr. andrew 5. Fisher Koon 1A-821 455 12 5t. S.W. Washington, D.C. 20554

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